

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Samuel & Mary Katherine DeAngelo,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0263
Parcel No. 05-000-35-0681

On September 3, 2013, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Samuel and Mary Katherine DeAngelo were self-represented. Brian Arnold represented the Warren County Board of Review. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Samuel and Mary Katherine DeAngelo are the owners of an acreage located at 6842 115th Avenue, Indianola, Iowa. The property is classified as agricultural. It includes is a two-story frame home built in 1993 with 1362 square feet of total living area and a full unfinished basement. The home also has two open porches totaling 198 square feet and a 510 square-foot attached garage. The home is of average quality (Grade 4) and is in normal condition. There is a 1584 square-foot steel utility building on the property. The site is 5.96 acres with 2.39 acres in forest reserve.

The DeAngelos protested the property's 2011 assessment to the Warren County Board of Review. The assessment was \$153,200, allocated as: \$7,600 in land value, \$140,500 in dwelling value, and \$5,100 in agricultural improvement value. This value was reduced by a \$2,800 exemption for the forest reserve to an assessed value after exemption of \$150,400. Their claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other

like property under Iowa Code section 441.37(1)(a)(1); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2); and 3) that there has been a downward change in value under sections 441.37(1)(b) and 441.35(2). They asserted the subject property's correct value was \$125,000. The Board of Review denied their claim.

The DeAngelos then appealed to this Board essentially re-asserting their claim that the property is over-assessed. They now assert the value should be \$143,100, allocated as follows: \$3,500 in land value, \$135,200 in dwelling value, and \$4,400 in agricultural improvement value. Based on the statement the DeAngelos supplied along with their appeal, it appears their primary concern is with the assessed land value.

Samuel DeAngelo testified that when they bought the property in 1993 there was no problem with flooding. According to DeAngelo, the subject site flooded twice in every year from 2005 to 2007; once in 2008; five times in 2009; three times in 2010; and one time in 2011. The DeAngelos provided pictures from 2009 demonstrating flooding on the property.

Mary Katherine DeAngelo testified they contacted the Department of Natural Resources about the flooding and were told the Department could not identify the cause of the Middle River going out its banks so often since 2005. She was told it may be a blockage or new houses that were built downstream causing the problem. DeAngelo stated the phone service goes out for five to six days every time it floods. There is no fire hydrant within a mile. In her opinion, neither the gravel roads nor the bridge are maintained very well and the bridge is closed at times. There is a public park one-half mile away which is the site of loud parties and where the sheriff found a meth lab in 2000. DeAngelo also stated that people use the area for a dumping ground. For these reasons, the DeAngelos believe the assessment on the subject property is too high.

County Assessor Brian Arnold testified for the Board of Review. He does not dispute the subject site is prone to flooding. He explained that agriculturally classified property is valued based on

its productivity, however, and therefore it is difficult to apply an adjustment for flooding. The subject property has corn suitability ratings (CSR) of 85 and 70, which are used to determine the subject property's productivity value. Arnold elaborated that the state determines the aggregate value of agricultural property in the county and the assessor distributes the value using the CSR ratings and determines a dollar value per CSR. The record does not contain a CSR soil report showing the calculation of the subject property's land value.

Arnold further explained 2.39 acres, or roughly forty percent of the site, are in the forest reserve program and are exempt from property taxation. (Exhibit B). The exempt portion is nearly identical to the area prone to flooding. (Exhibit A). Therefore, any adjustment to account for flooding would actually reduce the value of exemption.

When questioned, Arnold explained the dwelling is assessed using the cost approach to value. He stated size, condition, quality, age, and other factors impact the dwelling value. Arnold commented on the five equity properties the DeAngelos submitted to the Board of Review. He does not believe they are comparable to the subject property because of differences in size, age, and quality. Further, several of the properties are classified residential and therefore are valued using different methodology. Arnold also described the valuation of the Morton building situated on the property and the agricultural factor reduction it receives.

While the parties agree the DeAngelos' site is prone to flooding, the evidence indicates the area primarily affected is already exempt from taxation. Although the DeAngelos discussed other service-related issues impacting their property, they did not objectively demonstrate how those issues affect the property's value. We suggest they contact their local officials to discuss their concerns regarding the road and bridge maintenance and the usage of the nearby park.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is over-assessed.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

Land, improvements, and structures primarily used in good faith for agricultural purposes are classified and valued as agricultural real estate. Iowa Admin. Code R. 701-71.1(3). This includes nonresidential improvements and structures if their principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. *Id.* Buildings located on agricultural real estate which are primarily used or intended for human habitation, however, are valued like residential real estate. R. 701-71.1(3-4); 71.4. This means that a dwelling located on an agriculturally classified property is to be valued as residential. *Id.* In this case, the DeAngelos' land, including the land underneath the dwelling, and Morton building are classified and valued as agricultural realty. R. 701-71.3(3). The dwelling, however, is valued like other residential dwellings. R. 701-71.4.

In Iowa, residential property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value

essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a). If property is classified agricultural, however, it is to be assessed and valued on its productivity and net earning capacity. § 441.21(1)(e).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There was no dispute, and the evidence clearly shows, the subject site is prone to flooding. The majority of the flood prone area, however, is already exempt from taxation. The remainder of the land and the Morton building improvement is assessed using the prescribed productivity formula. Additionally, the DeAngelos did not objectively demonstrate, through the introduction of an appraisal or comparable sales, how flooding or other service-related issues affect the value of the only portion of their property assessed at its market value, the dwelling.

Therefore, we affirm the Warren County Board of Review decision affecting the assessment of the DeAngelo property located at 6842 115th Avenue in Indianola, Iowa of \$153,200.

Dated this 19th day of September, 2013.

Stewart Iverson
Stewart Iverson, Presiding Officer

Jacqueline Rypma
Jacqueline Rypma, Board Member

Karen Oberman
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>September 19, 2013</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	
Signature _____	